

SUMMARY OF THE MILLER-RANGEL SUBSTITUTE **THE PENSION FAIRNESS ACT**

TITLE I – IMPROVED DISCLOSURE

- Requires pension plans to provide participants in defined benefit and defined contribution (401(k)) plans periodic statements on earned benefits, including information on amounts of employer stock held in defined contribution plans and the importance of a diversified investment portfolio.
- Requires pension plans to notify plan participants if holdings in employer stock exceed 10%, and to advise participants of the risks of excessive employer stock holdings.
- Requires corporate insiders to notify pension plan participants if an insider sells stock holdings in excess of \$100,000.

TITLE II – EMPLOYEE FREEDOM TO MAKE INVESTMENT DECISIONS

- Provides employees freedom to diversify out of employer stock contributions after 3 years of service.

TITLE III – EMPLOYEE REPRESENTATION ON PENSION BOARDS

- Permits employees in defined contribution plans to serve on joint employee-employer pension plan boards of trustees.

TITLE IV – INCREASED EMPLOYER ACCOUNTABILITY

- Requires pension plan fiduciaries to obtain bonding or insurance to protect participants against financial losses.
- Makes clear that CEOs and accountants may be held accountable for participating in pension plan fraud and abuse.
- Creates an office of Pension Participant Advocacy at the Department of Labor to protect workers.
- Requires a study of the feasibility of creating a back-up insurance system for defined contribution plans.
- Adds an excise tax on pension plans that fail to provide workers with advance notice of pension blackout periods.

TITLE V – INDEPENDENT INVESTMENT ADVICE

- Makes clear that employers are not liable for advice provided if they prudently select and monitor investment advisors and requires investment advisors to either meet standards of independence or provide employees access to independent advice.
- Expands employee access to tax deferred qualified retirement planning services.

TITLE VI – EXECUTIVE COMPENSATION PARITY

- If a corporation funds employee defined contribution pensions with employer stock (which are not protected in bankruptcy), and funds executive deferred compensation (which would be protected), then executive deferred compensation shall be treated as gross income.
- Excludes pension surpluses and assets from inclusion in calculating executive performance-based compensation.

TITLE VII – PROTECTIONS FOR LONG SERVICE EMPLOYEES IN CASH BALANCE CONVERSIONS

- Pension plan conversions to cash balance plans must permit employees with 10 or more years of service to choose to receive either the pension benefits promised under the traditional plan or the new cash balance plan.

TITLE VIII – IMPROVED DISCLOSURE AND LIMITS ON EXECUTIVE COMPENSATION

- Assesses a golden parachute excise tax on deferred compensation paid after a major decline in stock value or a corporation declares bankruptcy.
- Requires corporations to notify employees of all executive compensation and to notify unions of existing compensation or changes in compensation during collective bargaining.

TITLE IX – ADDITIONAL PROVISIONS

- Makes permanent the Savers' Tax Credit (currently set to expire in 2006)
- Denies preferred treatment in bankruptcy to funded executive compensation.
- Limits the corporate deduction for reinvested ESOP dividends.